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State-Tribal Relations Committee

60th Montana Legislature

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November 2, 2007

Chair Carl Venne
Crow Tribe
159 Bacheeitché Ave.
P.O. Box 159
Crow Agency, MT 59022

Dear Chair Venne:

This letter is in response to questions from the Crow Tribe received by members of the State-Tribal Relations Committee during their October meeting regarding information relating to empowerment zones authorized under Title 7, chapter 21, part 37, and specifically whether state law could be amended to address empowerment zones on reservations.

As enacted, the empowerment zone statutes authorize a governing body to establish an empowerment zone as an economic development tool. Once established, an employer conducting business within the empowerment zone is allowed to claim a credit on the employer's state income tax returns against state income, corporate license or income, or insurance premium taxes. Because these credits are against taxes imposed by the state, section 7-21-3702, MCA, specifically defines a "governing body" as a board of county commissioners and the governing body of a consolidated local government or municipality, both of which are political subdivisions of the state. Amending the definition of "governing body" to include a tribal government would be inappropriate in this case because the credits are against state taxes rather than taxes imposed by the Tribe. As a result, one sovereign cannot waive the taxes of another sovereign. The empowerment zone law does authorize either Big Horn County or the City of Lodge Grass, for example, to establish an empowerment zone based on the boundaries of the Crow Reservation. If an empowerment zone were established by a city or county based on the boundaries of the reservation, employers within the zone would be eligible for the designated tax credits.

In researching this issue, the Department of Labor and Industry (DOLI) has informed me that to date no city or county in Montana has created an empowerment zone pursuant to Title 7, chapter 21, part 37. According to the DOLI, employers have opted to pursue similar programs offered by the federal government because the tax credits provided are much higher than those offered under Montana's "empowerment zone" statutes. Additionally, the 2007 Legislature did not provide an appropriation to the DOLI for administering empowerment zones.

The federal government does provide federal tax incentives for Montana employers through programs that are similar in nature to Montana's empowerment zones. The Small Business and Work Opportunity Act of 2007 offers Montana employers' tax incentives for hiring targeted hard-to-place workers. The Work Opportunity Tax Credit (WOTC) provides a federal tax credit that reduces the federal tax liability of private employers who hire from nine targeted groups. The targeted groups include, for example, TANF recipients, veterans, and residents of designated communities, defined as individuals living within an empowerment zones, renewal communities, or a rural renewal county. This federal program is administered by the Montana Department of Labor and Industry.

Additionally, Congress has enacted legislation to create renewal communities, empowerment zones, and enterprise communities. These programs encourage businesses to open, expand, and hire local residents by providing employment credits, low-interest loans, reduced taxation on capital gains, and other incentives. I have enclosed some information on these federal programs, including an article that discusses the Fort Peck Assiniboine and Sioux Tribes selection as a rural enterprise community under a program administered by the United States Department of Agriculture. The information provides some contact information should you be interested in these federal programs.

For your convenience, I have also enclosed a handbook describing the Small Business and Work Opportunity Act of 2007. If you are interested in this program and have questions, I suggest that you contact Ms. Christy Robbins, Montana Department of Labor and Industry (444-9046), who administers the program.

Sincerely,

Eddy McClure
Staff Attorney
Montana Legislative Services Division
Enclosures

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